



RAVALLI COUNTY ATTORNEY

George H. Corn, County Attorney
T. Geoffrey Mahar, Chief Deputy
John Bell, Deputy
Karen Mahar, Deputy
William E. Fulbright, Deputy
Alex Beal, Deputy

Ravalli County Courthouse
205 Bedford, Suite C
HAMILTON, MT 59840-2853
Phone (406) 375-6750
Fax (406) 375-6731

December 4, 2007

RECEIVED

Jim G. Shockley, Esq.
Attorney at Law
2386 Highway 93
P.O. Box 608
Victor, MT. 59875-0608

DEC 04 2007

Ravalli County Commissioners

--	--	--	--	--

Re: Estate of Scott W. Lewis

Dear Jim:

Your letters to me, as well as your most recent letter to Professor Patterson, miss the critical point I was making in our conversation about the above case. The point was not an abstract question regarding the duties of the Public Administrator, but rather that under the facts of this case there was absolutely no need for the Public Administrator to engage a law firm to sue the Sheriff and the County. For here there are competing heirs, all of whom have been represented by counsel from the beginning of the probate and are fully capable of suing if they think it appropriate.

By way of background, I note that you opened the estate on August 15, 2005, as attorney for the Public Administrator. In your Petition of that date, you asked that the Public Administrator be appointed because Jamie Lewis renounced her right and requested the Public Administrator be made Personal Representative. In the Petition, you stated that it was your belief that Jamie Lewis is the legal heir. The Petition lists only three people as potential heirs. It specifically lists Jamie Lewis as "wife," Gem Kylie Wysel as "putative wife," and Connor Lewis as "putative son." Given that Connor Lewis is the infant son of Gem Wysel, the dispute is between Ms. Wysel and Ms. Lewis only.

This has been the case since October 17, 2005, the date of the Order appointing the Public Administrator as Personal Representative. The probate file is silent as to why so little progress has been made on the determination of the proper heir since that date. Just as importantly, the probate file reflects that Jamie Lewis, who lives in Nebraska, has at all times been represented by counsel from that state and her in-state counsel has recently become Matt Thiel of Missoula. It also shows that Gem Wysel and Connor Lewis have from the inception of the probate been represented by local counsel David T. Markette, assisted by Dustin M. Chouinard. I also note that in your latest request for attorney fees of approximately \$10,000, you list the value of the estate as approximately \$130,000 and a wrongful death action.

In these circumstances, it is a mystery as to why the Public Administrator is involved at all in the probate, since the heirs are actively involved and the estate in this matter will clearly not revert to the State. But leaving that question aside, given that these parties are represented and perfectly capable of protecting their own interests, there was simply no legal requirement for the Public Administrator to engage a law firm to sue the Sheriff and the County when these heirs may or may not make the same decision after reviewing the facts of the matter.

I note that for the personal injury case you believe exists, the statute of limitations does not run until May 20, 2008. If there was no determination of the legal heir(s) at that point, the filing of a case by the personal representative might be appropriate to preserve a potential right of the legal heir to sue. However, this could be accomplished by the filing of a simple negligence claim which the heir(s) could later amend if necessary if they did decide to sue. But the Public Administrator preserving a potential claim to enable an heir to make the choice is altogether different than the Public Administrator proceeding with a suit which the heir or heirs may or may not wish to bring and for which the statute of limitations has not run.

In closing, let me make it clear that a wrongful death suit brought against the Sheriff and Ravalli County for the death of Mr. Lewis has no merit. For this reason, despite your derogatory comment to the contrary, as County Attorney I do not care which heir(s) sues if an heir(s) ultimately decides to do so. What I do care about, however, is that the Public Administrator seems intent on ensuring a suit is filed against the Sheriff and the County, which preempts the right of the eventual heir to make that choice.

Sincerely,



George H. Corn
Ravalli County Attorney

GHC/dp

Cc: Mrs. Frankie Laible
Matt Thiel, Esq.
David T. Markette, Esq.
Chris Hoffman, Sheriff
Cok, Wheat & Kinzler
Ravalli County Commissioners